

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-34 are pending in this application. No claims are amended, cancelled or added. Claims 1 and 15 are the independent claims.

Rejections under 35 U.S.C. § 103

Sun

Claims 1-4, 7-9, 15-18, 21, 25-26 and 28-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sun ("Thermally Robust Ta-Doped Ni SALICIDE Process Promising for sub-50nm CMOSFETs"). Applicants respectfully traverse this rejection for the reasons detailed below.

In response, Applicants submit a declaration under 37 C.F.R. 1.132 that establishes facts showing Applicants, who are joint inventors of the subject matter of claims 1-34, are co-authors of the Sun et al. reference, that the Sun et al. reference describes Applicants' own work, that the Sun et al. reference was published no earlier than December 4, 2002, and that the remaining co-authors of the Sun et al. reference are not inventors but were merely working under the direction of Applicants.

The Applicants note that a reference applied under 35 U.S.C. § 103 must also qualify as "prior art" under at least one section of 35 U.S.C. § 102. The Applicants note that Sun purports to have a publication date of June 10, 2003. The Applicants further note that the present application was filed in the USPTO on December 4, 2003, and claimed priority under 35 U.S.C. § 119 from a counterpart Korean application, specifically Korean Pat. Appl. No. 10-2003-

0042838, filed June 27, 2003, and that a certified copy of the priority document was subsequently filed in the USPTO.

Accordingly, due to the Rule 1.132 Declaration and the filing date of the present application, Sun fails to qualify as "prior art" under any section of 35 U.S.C. § 102 and cannot, therefore, support a valid § 103 rejection of the pending claims. Applicants note that the submitted declaration is unsigned and a properly executed declaration will be filed as soon as possible by supplemental response.

The Applicants, therefore, respectfully request that the rejection to Claims 1-4, 7-9, 15-18, 21, 25-26 and 28-34 under 35 U.S.C. § 103(a) be withdrawn.

Claims 2-4, 7-9, 16-18, 21, 25-26 and 28-34, dependent on independent claims 1 and 15, are patentable for the reasons stated above with respect to claims 1 and 15 as well as for their own merits.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection to independent claims 1 and 15 and all claims dependent thereon.

CONCLUSION


In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Erin G. Hoffman, Reg. No. 57,752, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By  Reg. # 57,752
for John A. Castellano, Reg. No. 35,094
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

JAC/EGH:ald